# Case: 4:21-cv-00058-JCH Doc. #: 1-1 Filed: 01/14/21 Page: 1 of 20 Page 01 169

# IN THE CIRCUIT COURT OF SAINT CHARLES STATE OF MISSOURI

BRIAN BRESNAHAN,	)	
	)	
Plaintiff,	)	
	)	Case No.
v.	)	
	)	Division No.
CITY OF SAINT PETERS,	)	
Serve:	)	
One St Peters Centre Blvd.	)	
Saint Peters, MO 63376	)	
	)	
and	)	
	)	
RICK STRUTTMANN,	)	
In his personal and official capacity	)	
as Chief of Police of the	)	
Saint Peters Police Department	)	
Serve:	)	
One St Peters Centre Blvd.	)	
Saint Peters, MO 63376	)	
,	)	
and	)	
	)	
RUSS BATZEL,	)	
In his personal and official capacity	)	
as City Administrator of the	)	
City of Saint Peters	)	
Serve:	)	
One St Peters Centre Blvd.	)	
Saint Peters, MO 63376	Ś	
	)	
Defendants.	)	

### PETITION FOR DAMAGES AND INJUNCTIVE RELIEF

COMES NOW the Plaintiff, Brian Bresnahan, by and through his undersigned attorney, and for his Petition under 42 U.S.C. § 1983, the First Amendment to the United States Constitution,

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and Title I, §§ 8, 10 of the Missouri Constitution against Defendants City of Saint Peters, Rick Struttmann, and Russ Batzel, states as follows:

- 1. At all times mentioned herein, Plaintiff was an individual who currently resides at 5E Sunny Wood Ct., Saint Peters, MO 63376, which is located in the County of Saint Charles, State of Missouri.
- 2. Defendant City of Saint Peters (hereinafter "City") is a city of the fourth class in the State of Missouri located within Saint Charles County.
- 3. Defendant Rick Struttmann is an individual and the Chief of the Saint Peters Police Department and he is sued in his personal and official capacity. Defendant Struttman is an employee of the City of Saint Peters and was acting in that capacity at all times herein.
- 4. Defendant Russ Batzel is an individual and the City Administrator of the City of Saint Peters and he is sued in his personal and official capacity. Defendant Batzel is an employee of the City of Saint Peters and was acting in that capacity at all times herein.
- 5. Plaintiff Brian Bresnahan worked for Defendant City as a Police Officer in the Saint Peters Police Department until on or about June 10, 2020 when his employment was terminated.
- 6. All acts complained of herein occurred within the County of Saint Charles, State of Missouri.

### Count I (First Amendment Claim)

7. On or about June 9, 2020, Plaintiff shared with fellow police officers a twitter post that contained a video clip from the currently airing television show "Paradise PD." The specific clip was relevant to and critical of ongoing protests that stemmed from the Black Lives Matter (hereinafter "BLM") movement.

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8. Plaintiff's constitutionally protected speech was sent within a text message group wherein all group members were police officers in the Saint Peters Police Department using their personal devices. The group was created to provide a team of officers up to date information regarding BLM protests within Saint Peters. The group contained both work-related and unrelated comments.

- 9. Saint Peters, Saint Charles County, and the surrounding counties were experiencing general civil unrest which led to some rioting and looting. This civil unrest was widely covered by the media and represented a matter of public concern.
- 10. In response to Plaintiff's constitutionally protected comments on a matter of public concern, one member of group voiced displeasure and disagreed with the message of the shared video.
- 11. Plaintiff's comment had no adverse effect on the working relationship or ability for Plaintiff and his fellow officers to perform the duties of their jobs.
- 12. On or about June 10, 2020, Plaintiff was ordered to Defendant Rick Struttmann's office. Plaintiff arrived in the morning hours after working through the night hours and having time for fewer than two hours of sleep.
- 13. Defendant Rick Struttmann berated Plaintiff for the comment and ordered him to resign his position within the Saint Peters Police Department. Plaintiff was told that if he resigned that morning, no investigation would commence into the Plaintiff's comment. Plaintiff was further told that if he did not resign that morning, Defendant Rick Struttmann would open an investigation into the comments and, regardless of the investigation, Defendant Struttman would ultimately recommend Plaintiff be terminated and that Defendant Russ Batzel would terminate Plaintiff's employment.

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- 14. At the close of the meeting on or about June 10, 2020, Defendant Chief of Police provided Plaintiff a resignation form, which Plaintiff signed.
- 15. Plaintiff's termination from the Saint Peters Police Department constitutes constructive discharge by Defendant Rick Struttmann.
- 16. Defendant Struttman's comments and assurance that Plaintiff would be fired if he did not resign rendered Plaintiff's working conditions intolerable and forced Plaintiff to resign.
- 17. Plaintiff's termination was solely based on and in retaliation of Plaintiff's constitutionally protected speech.
- 18. Plaintiff's constitutionally protected interest in free speech regarding a matter of public concern outweighs any interest Defendants may have in preventing such speech.
- 19. Plaintiff's protected speech was made at a reasonable time and in a reasonable manner and did not render the operations of the City inefficient, and his speech did not disrupt City operations in any way.
- 20. Defendants Struttman and Batzel actions in terminating Plaintiff's employment were intentional, malicious, and showed a complete disregard for due process, First Amendment protections, and other constitutional rights owed to the Plaintiff the First, Fourth, and Fourteenth Amendments to the United States Constitution, and Title I, §§ 8 and 10 of the Missouri Constitution.
- 21. Plaintiff's termination was an adverse employment action authorized, approved, and/or ratified by the Defendants under the color of state law and violated Plaintiff's rights under the Constitution of the United States and the Constitution of the State of Missouri.

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22. As a direct and proximate result of defendants' acts and omissions, Plaintiff has suffered humiliation and embarrassment, emotional distress and mental anguish, pain, suffering, and lost wages and associated damages in an amount yet to be determined.

- 23. As a direct and proximate result of defendants' acts and omissions, Plaintiff has suffered actual damages and will continue to suffer additional damages, in an amount in excess of \$25,000, exclusive of costs, as well as other monetary and non-monetary benefits.
- 24. The First Amendment of the United States Constitution grants rights of free speech and associated protections from the federal government. Those rights and protections have been extended to protect against each individual state through the Fourteenth Amendment of the United States Constitution. Article I, § 8 of the Missouri Constitution further solidifies an individual's right of free within the state of Missouri.
- 25. Plaintiff's termination is unlawful retaliatory termination based on Plaintiff's constitutionally protected speech.
- 26. All of the actions of Defendant Struttman and Defendant Batzel were careless and reckless and performed in complete disregard of the law and the rights of the Plaintiff, for which conduct and actions, punitive damages are properly imposed in such amounts as will punish the Defendants for their wrongful conduct and deter them from like conduct in the future.

WHEREFORE, Plaintiff prays a judgment in his favor and against all Defendants and thereafter:

- (a) injunctive relief against Defendant City reinstating Plaintiff's employment and amenities within the Saint Peters Police Department;
- (b) relief against Defendant City in the form of back-pay for the time Plaintiff was not employed by the Saint Peters Police Department;
  - (c) punitive damages against Defendants Struttman and Batzel;

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- (d) costs and attorneys' fees incurred against all Defendants; and
- (e) such other relief as this Court deems just and proper.

Respectfully submitted,

BRUNTRAGER & BILLINGS, P.C.

/s/ Peter O.Bruntrager
Peter O Bruntrager #67974
225 S. Meramec Ave.
Suite 1200
St. Louis, Missouri 63105
314-646-0066
314-646-0065 facsimile
Attorney for Plaintiff





Judge or Division: DANIEL G PELIKAN	Case Number: 2011-CC01169	
Plaintiff/Petitioner: BRIAN BRESNAHAN	Plaintiff's/Petitioner's Attorney/Address PETER OLIVER BRUNTRAGER 1114 MARKET ST ROOM 401 vs. ST LOUIS, MO 63101	
Defendant/Respondent: CITY OF ST. PETERS	Court Address: 300 N 2nd STREET	
Nature of Suit: CC Other Tort	SAINT CHARLES, MO 63301	(Date File Stamp)

Nature of Suit:		SAINT CHARLES,	MO 63301	
CC Other Tort				(Date File Stamp)
	Sui	mmons in Civ	il Case	(= 5.00 1 .00 0 5.00)
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	Alias:			
ONE ST. PETERS CENTRE BI SAINT PETERS, MO 63376	.VD.			
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	Further Information:	neriff's or Server's	Poturn	
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Judge or Division:	Case Number: 2011-CC01169	
DANIEL G PELIKAN		
Plaintiff/Petitioner:	Plaintiff's/Petitioner's Attorney/Address	
BRIAN BRESNAHAN	PETER OLIVER BRUNTRAGER	
	1114 MARKET ST	
	ROOM 401	
VS.	ST LOUIS, MO 63101	
Defendant/Respondent:	Court Address:	
CITY OF ST. PETERS	300 N 2nd STREET	
Nature of Suit:	SAINT CHARLES, MO 63301	
CC Other Tort		(Date File Stamp)

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CC Other Tort				(Date File Stamp)
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The State of Missouri to	: RICK STRUTTMANN	N .		
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Judge or Division: DANIEL G PELIKAN	Case Number: 2011-CC01169	
Plaintiff/Petitioner: BRIAN BRESNAHAN	Plaintiff's/Petitioner's Attorney/Address PETER OLIVER BRUNTRAGER 1114 MARKET ST ROOM 401 ST LOUIS, MO 63101	
Vs.  Defendant/Respondent: CITY OF ST. PETERS  Nature of Suit: CC Other Tort	Court Address: 300 N 2nd STREET SAINT CHARLES, MO 63301	(Date File Stamp)
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CC Other Tort				(Date File Stamp)
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## RETURN OF SERVICE - Record # 2020-010212

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DOCUMENT RETURNED TO OFFICE FOR FINAL DISPOSITION:

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## IN THE 11TH JUDICIAL CIRCUIT, ST. CHARLES COUNTY, MISSOURI

**OCCOX*		
Judge or Division	Case Number: 2011-CC01169	
DANIEL G PELIKAN		
Plaintiff/Petitioner:	Plaintiff's/Petitioner's Attorney/Address	
BRIAN BRESNAHAN	PETER OLIVER BRUNTRAGER	
	1114 MARKET ST	
	ROOM 401	
VS.	ST LOUIS, MO 63101	
Defendant/Respondent.	Court Address:	
CITY OF ST PETERS	300 N 2nd STREET	
Nature of Suit:	SAINT CHARLES, MO 63301	
CC Other Tort		(D.1. E1. 01)
CC Officer Fort		(Date File Stamp)

### **Summons in Civil Case**

The State of Missouri to: CITY OF ST. PETERS Alias:  ONE ST. PETERS CENTRE BLVD.  SAINT PETERS, Mo 63376  COURT SEAL OF  COURT SEAL OF  ONE ST. CHARLES COUNTY  You are summoned to appear before this court and to file your pleading to the petition, a copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.  Sheriff's or Server's Return  Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.  I certify that I have served the above summons by (check one)  delivering a copy of the summons and a copy of the petition to the defendant/respondent.  leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with a particle on a corporation) delivering a copy of the summons and a copy of the summons and a copy of the complaint to the defendant/respondent family over the age of 15 years who permanently resides with the defendant/respondent (or service on a corporation) delivering a copy of the summons and a copy of the complaint to (name)  other:  Served at
ONE ST. PETERS CENTRE BLVD.  SAINT PETERS, MO 63376  COURT SEAL OF copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.  St. CHARLES COUNTY  12/14/2020
SAINT PETERS, Mo 63376  COURT SEAL OF  COURT SEAL O
copy of which is attached, and to serve a copy of your pleading upon the attorney for plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.    12/14/2020
plaintiff/petitioner at the above address all within 30 days after receiving this summons, exclusive of the day of service. If you fail to file your pleading, judgment by default may be taken against you for the relief demanded in the petition.    12/14/2020
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St. CHARLES COUNTY
Sheriff's or Server's Return  Note to serving officer: Summons should be returned to the court within 30 days after the date of issue.  I certify that I have served the above summons by: (check one)    delivering a copy of the summons and a copy of the petition to the defendant/respondent.   leaving a copy of the summons and a copy of the petition at the dwelling place or usual abode of the defendant/respondent with a person of the defendant's/respondent's family over the age of 15 years who permanently resides with the defendant/respondent   (for service on a corporation) delivering a copy of the summons and a copy of the complaint to:   (name)
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Total \$ SHERIFF A copy of the summons and a copy of the petition must be served on each defendant/respondent. For 两种皮肤和现象和例 MO

Case: 4:21-cv-00058-JCH Doc #: 1-1 Filed: 01/14/21 Page: 12 of 18 PageID #: 16





### St. Charles County Sheriff's Department 201 North Second Street, Ste. 440, St. Charles, MO 63301

## RETURN OF SERVICE - Record # 2020-010213

Case No:	2011CC0	1169			Court: S	T CHARLES	
Plaintiff:	BRESNAH	AN, BRI	AN		This is a second		
Defendan	t: CITY O	F ST PE	TERS			- k	
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Case: 4:21-cv-00058-JCH Doc. #: 1-1 Filed: 01/14/21 Page: 13 of 18 PageID #: 17

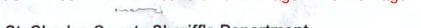


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Judge or Division:	Case Number: 2011-CC01169	
DANIEL G PELIKAN		
Plaintiff/Petitioner:	Plaintiff's/Petitioner's Attorney/Address	
BRIAN BRESNAHAN	PETER OLIVER BRUNTRAGER	
	1114 MARKET ST	
	ROOM 401	
VS.	ST LOUIS, MO 63101	
Defendant/Respondent:	Court Address:	1
CITY OF ST. PETERS	300 N 2nd STREET	
Nature of Suit:	SAINT CHARLES, MO 63301	
CC Other Tort		(Date File Stamp)
	** ************************************	

	Summons in Civil Case	
he State of Missouri to	D: RICK STRUTTMANN	
	Alias:	
NE ST. PETERS CENTRE B AINT PETERS, MO 63376	LVD.	
COURT SEAL OF	You are summoned to appear before this court and	I to file your pleading to the petition, a
OF STATE	copy of which is attached, and to serve a copy of y	
	plaintiff/petitioner at the above address all within 3	
(A) (A) (B)	exclusive of the day of service. If you fail to file you	
	be taken against you for the relief demanded in the	petition.
ST. CHARLES COUNTY	12/14/2020	/S/ Cheryl Crowder
ST. CHARLES COUNTY	Date	Clerk
	Further Information	
	Sheriff's or Server's Return	MARINE CAN AN ALL CON COMM
	: Summons should be returned to the court within 30 days after the	e date of issue.
	ed the above summons by (check one)	
D leaving a convert the	he summons and a copy of the petition to the defendant/responde summons and a copy of the petition at the dwelling place or usua	I shode of the defendant/respondent with
☐ leaving a copy of the	anently resides with the defendant/respondent.	dant's/respondent's family over the age of
15 years who perma	anently resides with the defendant/respondent.	,
(for service on a corp	oration) delivering a copy of the summons and a copy of the corr	plaint to:
	(name)	(title).
other:		,
Served at		(address)
in	(County/City of St. Louis), MO, on	(date) at (time).
Printed Nam	ne of Sheriff or Server	Signature of Sheriff or Server
	Must be sworn before a notary public if not served by an authorize	
(Seal)	Subscribed and sworn to before me on	(date).
( oosi)	My commission expires:	
	Date	Notary Public
Sheriff's Fees, if applicat	ple	BECEN/ED
Summons	\$	RECEIVED
Non Est	\$	AM PM
Sheriff's Deputy Salary	A 40.00	DEC 1 6 2020
Supplemental Surcharge	\$ 10.00	DEC 1 9 5050
Mileage	\$ ( miles @ \$ per mile)	SHERIFF
Total	3	10
A copy of the summons ar classes of suits, see Suore	nd a copy of the petition must be served on <b>each</b> defendant/respondence Court Rule 54.	ondent. For Beinoosietisenics en all



Case: 4:21-cv-00058-JCH Doc. #: 1-1 Filed: 01/14/21 Page: 14 of 18 PageID #: 18

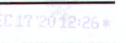


St. Charles County Sheriff's Department 201 North Second Street, Ste. 440, St. Charles, MO 63301

## RETURN OF SERVICE - Record # 2020-010214

Case No:	2011CC01	169		Court: ST C	HARLES	
Plaintiff:	BRESNAHA	N, BRIA	AN			
Defendar	nt: CITY OF	ST PE	TERS	1 B		
Court / R	eturn Date:	01/13/	2020	Doc ID#: 2	0-SMCC-22	263
Type of D	Document:	CIVIL	SUMMONS		Zone	03
Party to I	be served:	BATZE	L, RUSS			
Address:	1 ST PETE	ERS CEI	NTRE BLVD, ST P	ETERS, MO 63376		
Employm	nent / Altern	ate:				
Special I	nfo / Pedigr	ee: O	THER TORT			
			FIN	IAL SERVICE		
PARTY S	ERVED:	scor	T BAUMG	ARTNER		
			DEPUTY CIT		)	
	12-16-		1 1 2 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	Time: 0930		The state of the s
ADDRES	S: 5AA	NE		200		
DECEASE SCOTT	A LEWIS,			EXPIRED UPON RECEIPT  NO LONGER EMPLOYED  County, Missouri		SHORT TURNAROUND
Printed Na	me STE	VEN	ROBERSON			
TOTAL F	EES:	330	00			
	No.		D. H. C. Control of the Control of t	EMPTS / NOTES		DEC 16 '20 13
Date	Time	DSN	Comments			
and the second						-
				1 2 2		
		T A				
	J. J. J. J.	0	li a			
	- 1					
			1			

DOCUMENT RETURNED TO OFFICE FOR FINAL DISPOSITION:



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## IN THE 11TH JUDICIAL CIRCUIT, ST. CHARLES COUNTY, MISSOURI

Judge or Division: DANIEL G PELIKAN		Case Number: 2011-CC01169	8
Plaintiff/Petitioner: BRIAN BRESNAHAN	Vs. i	Plaintiff's/Petitioner's Attorney/Address PETER OLIVER BRUNTRAGER 1114 MARKET ST ROOM 401 ST LOUIS, MO 63101	
Defendant/Respondent: CITY OF ST. PETERS		Court Address: 300 N 2nd STREET	
Nature of Suit: CC Other Tort		SAINT CHARLES, MO 63301	(Date File Stamp)

Summons in Civil Case

	Summons in Civil Case		
The State of Missouri to	o: RUSS BATZEL		
	Alias:		
ONE ST. PETERS CENTRE BI SAINT PETERS, MO 63376	LVD.		
COURT SEAL OF	You are summoned to appear before this court ar	nd to file your pleading to	the petition, a
QURTOR	copy of which is attached, and to serve a copy of	your pleading upon the a	ttorney for
	plaintiff/petitioner at the above address all within		
	exclusive of the day of service. If you fail to file yo		default may
	be taken against you for the relief demanded in th	ie petition.	
The state of the s	40/44/0000	10.0.	
ST. CHARLES COUNTY	12/14/2020 Date	/S/ Cheryl Crowder Clerk	<del></del>
	Further Information:	Oldin	
*	Sheriff's or Server's Return	E	***
Note to serving officer:	Summons should be returned to the court within 30 days after	the date of issue	
	d the above summons by: (check one)	are date of 15500.	
The state of the s	ne summons and a copy of the petition to the defendant/respond	dent	
leaving a copy of the	summons and a copy of the petition at the dwelling place or usu	ual abode of the defendant/res	condent with
,	a person of the defe	ndant's/respondent's family ov	er the age of
15 years who perma	nently resides with the defendant/respondent.	-	
(for service on a corpo	oration) delivering a copy of the summons and a copy of the co	mplaint to	
	(name)		(title).
other:			·
Served at			(addrass)
in	(County/City of St. Louis), MO, on	(date) at	(time).
			4
		<u> </u>	
Printed Nami	e of Sheriff or Server  Must be sworn before a notary public if not served by an authorize	Signature of Sheriff or Server	
(Seal)	Subscribed and sworn to before me on	(date).	
17	My commission expires:		
	My commission expires:	Notary Public	<del></del> :
Sheriff's Fees, if applicab			
Summons	\$	RECEIV	FD
Non Est	\$		PM
Sheriff's Deputy Salary	' <del></del>	AM	PIVI
Supplemental Surcharge	\$10.00	DEC 1 6 2	2020
Mileage	\$ ( miles @ \$ per mile)	DECTO	1020
Total	\$	SHERIF	E
A copy of the summons and	d a copy of the petition must be served on each defendant/resp	ondent Formetbods of service	o Mic mark
classes of suits, see Supre	me Court Rule 54.	ST. CHARLES	E81 41110

# IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS STATE OF MISSOURI

BRIAN BRESNAHAN,	)		
	)		
Plaintiff,	)		
	)		
	)	Cause No.:	2011-CC01169
vs.	)		
	)	Division No.	•
CITY OF ST. PETERS, ET AL.	)		
	)		
Defendant,	)		

### **RETURN OF SERVICE**

COMES NOW Plaintiff, and files return of service on Defendant City of St. Peters.

BRUNTRAGER & BILLINGS, P.C.

/s/ Peter O. Bruntrager
Peter O. Bruntrager, #67974
Attorney for Defendant
225 S. Meramec Ave., Suite 1200
Clayton, MO 63105
(314) 646-0066
(314) 646-0065 Fax
pob@law-stl.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of December, 2020, the foregoing **Return of**Service was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

_/s/ Peter O. B	runtrager

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# IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS STATE OF MISSOURI

BRIAN BRESNAHAN,	)		
	)		
Plaintiff,	)		
	)		
	)	Cause No.:	2011-CC01169
vs.	)		
	)	Division No.	•
CITY OF ST. PETERS, ET AL.	)		
	)		
Defendant,	)		

### **RETURN OF SERVICE**

COMES NOW Plaintiff, and files return of service on Defendant Rick Struttmann.

BRUNTRAGER & BILLINGS, P.C.

/s/ Peter O. Bruntrager
Peter O. Bruntrager, #67974
Attorney for Defendant
225 S. Meramec Ave., Suite 1200
Clayton, MO 63105
(314) 646-0066
(314) 646-0065 Fax
pob@law-stl.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of December, 2020, the foregoing **Return of**Service was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

_/s/ Peter O.	Bruntrager	

Case: 4:21-cv-00058-JCH Doc. #: 1-1 Filed: 01/14/21 Page: 18 of 18 PageID #: 22

# IN THE CIRCUIT COURT OF THE COUNTY OF ST. LOUIS STATE OF MISSOURI

BRIAN BRESNAHAN,	)		
	)		
Plaintiff,	)		
	)		
	)	Cause No.:	2011-CC01169
VS.	)		
	)	Division No.	:
CITY OF ST. PETERS, ET AL.	)		
	)		
Defendant,	)		

#### **RETURN OF SERVICE**

COMES NOW Plaintiff, and files return of service on Defendant Russ Batzel.

BRUNTRAGER & BILLINGS, P.C.

/s/ Peter O. Bruntrager Peter O. Bruntrager, #67974 Attorney for Defendant 225 S. Meramec Ave., Suite 1200 Clayton, MO 63105 (314) 646-0066 (314) 646-0065 Fax pob@law-stl.com

### **CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of December, 2020, the foregoing **Return of**Service was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all attorneys of record.

	_/s/ Peter O. I	Bruntrager
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